

REMARKS

While the Applicant has not yet received an Interview Summary, the Applicant hereby thanks the Examiner for the productive Telephonic Interview conducted on February 4, 2004. Upon reconsideration, Claims 41-48, are herein canceled, without prejudice; and new Claims 49-62 are herein added to better simply describe the present invention in language consistent with that found in the originally filed January 2, 1998, Specification. New claims 49-62 are believed to be fully supported by the originally filed specification and to be in allowable form. The Applicant respectfully asserts that no claims have been narrowed, by cancellation, within the meaning of *Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co.* (Fed.Cir. November 29, 2000). Thus, favorable consideration of the present continuation application is respectfully requested in light of the foregoing amendment and these remarks.

I. Rejection of the Claims under 35 U.S.C. § 112, first paragraph.

The herein canceled claims have been rejected under 35 U.S.C. § 112, first paragraph, in the outstanding Office Action as failing to comply with the written description requirement, i.e., that the term “reassigning” is not present in the Specification. As claims 41-48 have been herein canceled, without prejudice, and new claims 49-62 do not contain the term “reassigning,” the Applicant respectfully traverses this ground for rejection and submits that the herein newly added Claims 49-62 contain language which is consistent with, and fully supported by, the originally filed Specification. Therefore, the Applicant respectfully requests that the ground for rejection on this basis be withdrawn and the pending claims be passed to allowance.

II. Objection to the Claims under 37 C.F.R. § 1.75.

The herein canceled claims have been objected under 37 C.F.R. § 1.75 in the outstanding Office Action as being substantial duplicates of Claim 41. As claims 41-48 have been herein canceled, without prejudice, the Applicant respectfully traverses this ground for rejection and submits that herein newly added Claims 49-62 now contain language demonstrating and distinguishing the various combinations of inventive features. Therefore,

the Applicant respectfully requests that the grounds for objection to the claims on this basis be withdrawn and the pending claims be passed to allowance.

III. Rejection of the Claims under 35 U.S.C. § 102(e) on the basis of Friesen (US 6,496,884 B1).

The herein canceled claims have been rejected under 35 U.S.C. § 102(e) in the outstanding Office Action as being anticipated by Friesen (US 6,496,884 B1), entitled “Microcomputer System with Color-Coded Components.” The Examiner has cited *Ex Parte Masham*, 2, USPQ2d 1647 in support of this ground for rejection. The Applicant appreciates and thanks the Examiner for the recognition that “Friesen does not explicitly teach a plurality of color-coded labels as intended by the Applicant (for selectively and correspondingly reassigning one or more of said plurality of color assignable areas to a corresponding number of different ones of said plurality of peripheral devices)” (Office Action, p. 7, item 5). As claims 41-48 have been herein canceled, without prejudice, the Applicant respectfully traverses this ground for rejection and submits that herein newly added claims 49-62 are distinct over Friesen.

Friesen actually teaches (col. 2, ll. 36-41): “A set of adhesive strips is attached to positions adjacent to the ports of a microcomputer. Each strip has a distinct color. ... other means for providing color-coding to the ports, such as painting.” As such, Friesen merely teaches a structural limitation comprising a hard-wired color-coded adhesive strip or a permanently painted color-coding scheme for the *peripheral ports, each port being electrically distinct, i.e., inputs and outputs, USB, parallel, serial, mouse, keyboard, etc.*

In contrast, the present invention teaches and generally claims an AC electrical power distribution system comprising a housing having a plurality of ***substantially identical AC power distribution outlets (all substantially the same and supplying AC power)*** for connecting AC electrical power to a plurality of devices, *said housing having a plurality of colored areas for selectively identifying each device of said plurality of devices, each colored area of said colored areas on said housing being different in color than any other such colored area, and each of said colored areas being assigned to a different device* (Claim 49). What actually plugs into the presently claimed AC electrical power distribution system are not devices which are peripheral to the claimed system, but may be peripheral to the another device such as an amp/receiver.

Further the presently claimed **AC power outlets** are *substantially identical*, electrically, to one another whereas the **peripheral ports of Friesen** are **electrically as well as mechanically distinct from one another**. Thus, the invention of Claim 49 includes different structural elements from those taught by Friesen. Friesen does not teach, nor even suggest, different colored AC power outlets. Accordingly, Friesen cannot anticipate herein newly added Claim 49. For this reason alone, Claim 49 is allowable and such allowance is hereby respectfully requested.

In terms of the cited case law, *Ex Parte Masham* actually held: "... a recitation with respect to **the material intended to be worked upon by a claimed apparatus does not impose any structural limitations** upon the claimed apparatus which differentiates it from a prior art apparatus satisfying the structural limitations of that claimed." [Emphasis added.] In *Ex Parte Masham*, the functional limitation at issue is one placed upon "flowing developer material." The developer material is not an element of Masham's claim, but merely a workpiece. The William's patent being cited art against Masham, disclosed all of Masham's structural elements, but being used for different functions.

In addition, *Ex Parte Masham* has been since distinguished by *Ex Parte Woodson* (US 07/916,157, Appeal No. 95-1827, Dec. 11, 1998), in reversing the examiner's rejections, under §§ 112, 102(a),(b), and 103(a) which reasoned and held:

... The **electrically conductive medium is positively recited** in appealed claim 23. As noted ... in *In re Wilder*, **all positively recited limitations must be given effect**. The Rishoi and Masham cases[,] cited by the examiner[,] are distinguishable by the fact situation in this appeal. These cases dealt with the claimed limitation of a material to be worked upon in combination with an apparatus.⁵ Here[,] the **"electrically conductive medium" is an essential part of the operating apparatus and is not the material to be worked upon**. The material that is being worked upon is the object to be sterilized, e.g., the catheter including a biofilm that requires sterilization. Therefore[,] the examiner's finding that the **"electrically conductive medium" of appealed claim 23 is the "material being worked upon"** ... is in error.

The electrically conductive medium required in the apparatus of appealed claim 23 allows the electric field to have an effect upon the biofilm without the biofilm contacting the electrodes We see no difference between the type of subject matter here claimed and claims presented to a battery containing an electrolyte

For the foregoing reasons, we conclude that the examiner has failed to show that all of the limitations of appealed claim 23 are disclosed or suggested by Stillman. Accordingly, the rejection of claims 23, ..., under 35 U.S.C. § 102(a) and (b), as anticipated by, or, in the alternative, under 35 U.S.C. § 103, as being unpatentable over, Stillman is reversed. [Emphasis added.]

As such, the Examiner's point has been well-taken with respect to *Masham*. However, the Applicant respectfully submits that *Woodson* is on point and that *Masham* is, thus, likewise distinguishable from the instant case in that the limitation at issue in *Masham* truly is a mere functional limitation on the "workpiece" or "**the material intended to be worked upon by a claimed apparatus.**" Here, Friesen simply **does not teach** the presently claimed "**substantially identical AC power distribution outlets.**" The Applicant believes that **substantially identical AC power distribution outlets**, being **positively recited** in the herein newly added claims as a distinct structural element of the present invention, constitutes a *structural limitation* distinction, not merely a functional distinction, over Friesen for which even *Masham* does not preclude allowability. In other words, the presently claimed **substantially identical AC power distribution outlets** do not constitute **workpieces**. Therefore, the Applicant respectfully requests that the ground for rejection of the claims on this basis be withdrawn and the pending claims be passed to allowance.

IV. Rejection of the Claims under 35 U.S.C. § 103(a) on the basis of Friesen (US 6,496,884 B1), in view of a webpage by Brooks.

The herein canceled claims have been rejected under 35 U.S.C. § 103(a) in the outstanding Office Action as being unpatentable over Friesen (US 6,496,884 B1), entitled "Microcomputer System with Color-Coded Components," in view of a webpage by Brooks, M. W., "How to Relabel or Rearrange Keycaps." As claims 41-48 have been herein canceled, without prejudice, the Applicant respectfully traverses this ground for rejection and submits that herein newly added claims 49-62 are patentably distinct over Friesen, even in view of Brooks.

As discussed, *supra*, Friesen merely teaches a structural limitation comprising a hard-wired color-coded adhesive strip or a permanently painted color-coding scheme for the peripheral ports, *each port being electrically distinct from one another*. Brooks merely teaches relabeling the **keycaps on a computer keyboard**, not the presently claimed **substantially identical AC power distribution outlets**. Each keycap on a keyboard in Brooks *is inherently electrically distinct from one another* as such is the purpose of a keyboard. For instance, you would not expect to type both the letter "q" and the letter "w" on a keyboard, even after relabeling, and still obtain the same letter "m" associated with both "q" and "w." Each key on a keyboard is

associated with a *distinct electrical signal*. Taking this reasoning to its logical conclusion, the result would merely be **color-coding electrically distinct peripheral ports of a microcomputer or color-coding electrically distinct keycaps of a keyboard, not color-coding substantially identical AC power distribution outlets.**

5 In contrast, the present invention provides the color-coding to prevent accidental disconnection, i.e., prevents confusion, from the system as the present system has ***substantially identical AC power distribution outlets***, in the electrical sense as each outlet provides a coupling for the same electrical signal. Thus, the present invention is counterintuitive, because the color-coding is applied to *electrically identical outlets for preventing accidental "unplugging."* This
10 is the very problem that was not appreciated by the cited art.

Indeed, long-felt, but unsolved, needs only militate in favor of patentability as has been held by the seminal case of *Graham v. John Deere Co.*, 383 U.S. 1, 86 S.Ct. 684, 15 L.Ed.2d 545, 148 USPQ 459 (1966). If recognition of the problem sought to be solved by the present invention makes the solution obvious, then the illogical conclusion would be that all inventions
15 are rendered obvious except for accidental discoveries, which is clearly not the basis of obviousness determinations nor the legislative intent behind the patent laws. This being so, the only motivation or suggestion for combining the claimed elements arises from the present application itself which would then render improper any obviousness finding on such grounds.

Furthermore, if mere claiming an element involving color-coding would preclude
20 patentability of any claimed combination, then, by that rationale, Friesen, itself, being herein cited against the present application, should never have been allowed and issued as a patent in the first instance, especially in light of its listed cited references, of which many involved the element of color-coding, e.g., Francis, Bob, "Packard Bell Redesigns PC to be *Colorful* and Easy to Use," June 22, 1994. **Yet, Friesen, along with a plethora of other U.S. patents involving
25 color-coding, have indeed and undeniably been issued.**

Also on point is *In re Shaffer*, 108 USPQ 326, 329 (CCPA 1956) where the Court reversed the rejection, stating:

30 In fact, a person having the references before him who was not cognizant of appellant's disclosure would not be informed that the problem solved by appellant ever existed. Therefore, **can it be said that these references which never recognized appellant's problem would have suggested its solution? We think not, and therefore feel that the references were improperly combined since there is no suggestion in either of the references that they can be combined to produce appellant's result.** [Emphasis added.]

Here, as in *Shaffer*, Friesen could not make the present invention obvious, because Brooks has not even been aware of the “accidental unplugging” versus “plugging” problem which is so adroitly solved by the Applicant’s invention. As such, neither Friesen nor Brooks could have suggested nor motivated the Applicant’s simple, yet ingenious, solution to the problem.

In a recent case, *In re Lee*, 61 USPQ2d 1430 (CAFC 2002) stated:

As applied to the determination of patentability vel non when the issue is obviousness, “it is fundamental that rejections under 35 U.S.C. § 103 must be based on evidence comprehended by the language of that section.” *In re Grasselli*, 713 F.2d 731, 739, 218 USPQ 769, 775 (Fed. Cir. 1983). The essential **factual evidence** on the issue of obviousness is set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17-18, 148 USPQ 459, 467 (1966) and extensive ensuing precedent. The patent examination process centers on prior art and the analysis thereof. When patentability turns on the question of obviousness, the search for and analysis of the prior art includes evidence relevant to the finding of **whether there is a teaching, motivation, or suggestion to select and combine the references relied on as evidence of obviousness**. See, e.g., *McGinley v. Franklin Sports, Inc.*, 262 F.3d 1339, 1351-52, 60 USPQ2d 1001, 1008 (Fed. Cir. 2001) (“the central question is **whether there is reason to combine [the] references,**” a question of fact drawing on the Graham factors).

“The factual inquiry whether to combine references must be thorough and searching.” *Id.* It must be based on **objective evidence of record**. This precedent has been reinforced in myriad decisions, and cannot be dispensed with. See, e.g., *Brown & Williamson Tobacco Corp. v. Philip Morris Inc.*, 229 F.3d 1120, 1124-25, 56 USPQ2d 1456, 1459 (Fed. Cir. 2000) (“a showing of a suggestion, teaching, or motivation to combine the prior art references is an ‘essential component of an obviousness holding’”) (quoting *C.R. Bard, Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998)); *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999) (“Our case law makes clear that the best defense against the subtle but powerful attraction of a hindsight-based obviousness analysis is rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references.”); *In re Dance*, 160 F.3d 1339, 1343, 48 USPQ2d 1635, 1637 (Fed. Cir. 1998) (there must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the applicant); *In re Fine*, 837 F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988) (“teachings of references can be combined only if there is some suggestion or incentive to do so.”) (emphasis in original) (quoting *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed. Cir. 1984)). **The need for specificity pervades this authority**. See, e.g., *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) (“**particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed**”); *In re Rouffet*, 149 F.3d 1350, 1359, 47 USPQ2d 1453, 1459 (Fed. Cir. 1998) (“even when the level of skill in the art is high, the Board must identify specifically the principle, known to one of ordinary skill, that suggests the claimed combination.

In other words, the Board must **explain the reasons one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious**.”); *In re Fritch*, 972 F.2d 1260, 1265, 23 USPQ2d 1780, 1783 (Fed. Cir. 1992) (the examiner can satisfy the burden of showing obviousness of the combination “only by showing some **objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references**”). [Emphasis added.]

In accord with the foregoing case law is *Panduit Corp. v. Dennison Mfg. Co.*, 227 USPQ 337, 344 (CAFC 1985). Similarly, *Bausch & Lomb, Inc. v. Barnes Hind/Hydrocurve, Inc.*, 231 USPQ 416, 419 (CAFC 1986) held:

It is impermissible within the framework of Section 103 to pick and choose from any one reference only so much of it as will support a given position "to the exclusion of other parts necessary to the full appreciation of what such reference fairly suggests to one skilled in the art." [Emphasis added.]

Thus, a result-oriented finding of obviousness (piece-meal) is also prohibited.

Likewise, *In re Zurko*, 59 USPQ2d 1697, 1698 (CAFC), August 2, 2001, held:

Finally, the deficiencies of the cited references cannot be remedied by the Board's general conclusions about what is "basic knowledge" or "common sense" to one of ordinary skill in the art. ... the Board contended that "it is basic knowledge that communication in trusted environments is performed over trusted paths" and ... verifying the trusted command ... is "nothing more than good common sense." We cannot accept these findings by the Board. This assessment of basic knowledge and common sense was not based on any evidence in the record and, therefore, lacks substantial evidence support. Rather, the Board must point to some *concrete evidence* in the record in support of these findings.² To hold otherwise would render the process of appellate review for substantial evidence on the record a meaningless exercise. Accordingly, we cannot accept the Board's unsupported assessment of the prior art. [Emphasis added.]

Thus, simply reaching conclusions based on a mere assessment of what would be ordinary skill "basic knowledge" or "common sense" is prohibited.

Another relevant case is *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992) which held that combining simple elements from different references does not, in and of itself, sustain grounds for an obviousness-based rejection:

Vital Signs has not offered sufficient independent evidence to support the district court's decision to combine elements from different references, arguing only that the suggestion to combine references comes from knowledge and common sense of a person of ordinary skill in the art. See, e.g., *In re Bozek*, **That common knowledge may have been within the province of the ordinary artisan does not in and of itself make it so, absent clear and convincing evidence of such knowledge.** See *C.R. Bard, Inc. v. M3 Sys., Inc.*, 157 F.3d 1340, 1352, 48 USPQ2d 1225, 1232 (Fed. Cir. 1998); *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc.*, 776 F.2d 281, 297-98, 227 USPQ 657, 667 (Fed. Cir. 1985). Vital Signs, thus failed ... to establish why one of ordinary skill would have found it obvious to combine ... limitations in a particular way to achieve the ... invention.

Further, *In re Jones* defines the requisite level of suggestion for sustaining a § 103(a) rejection:

Before the PTO may combine the disclosures of two or more prior art references in order to establish prima facie obviousness, **there must be some suggestion for doing so** *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598-99 (Fed. Cir. 1988). [at 1943] [emphasis added] ... the combination ... is not an extraordinary invention; it is deceptively simple. However, **simplicity alone cannot be determinative of obviousness.** See *Gentry Galley, Inc. v. Berkline Corp.*, 143 F.3d 1473, 1478 [45 USPQ2d 1498] (Fed. Cir. 1998); See also *In re Oetiker*, 977 F.2d 1443, 1447 [24 USPQ2d 1443] (Fed. Cir. 1992) (“Simplicity alone is not inimical to patentability.”). The standard of obviousness is not whether in hindsight, it seems elementary that someone would have combined these certain elements in the prior art to form the invention in question. It is insufficient to prove that at the time of the claimed invention, the separate elements of the device were present in the known art. **Rather, there must have been some explicit teaching or suggestion in the art to motivate one of even ordinary skill to combine such elements so as to create the same invention.** See *Arkie Lures, Inc. v. Gene Larew Tackle, Inc.*, 119 F.3d 953, 957 [43 USPQ2d 1294] (Fed. Cir. 1997). The prior art must provide one of ordinary skill in the art the motivation to make the proposed molecular modifications needed to arrive at the claimed compound. [at 1944] [Emphasis added.]

In addition, *In re McLaughlin* held: “... the test for combining references is **not what the individual references themselves suggest but rather what the combination of disclosures taken as a whole would suggest** to one of ordinary skill in the art.” *In re McLaughlin*, 170 USPQ at 212 (1971). The Court there further stated: “... it is **imperative** that such **secondary considerations** also be evaluated in determining the final validity of that legal conclusion. **We emphasize** that such is true even where, as here, the claimed invention involves **only relatively simple mechanical concepts.** ‘A patentable invention, within the ambit of 35 U.S.C. 103, *may* result even if the inventor *has*, in effect, merely combined features, old in the art, for their own purpose, without producing anything beyond the results inherent in their use.’” *In re McLaughlin*, 170 USPQ at 212 (1971) [Emphasis added].

In the instant case, neither suggestion nor motivation can be found for combining Friesen with Brooks, as peripheral ports and keycaps are as analogous as “apples” and “oranges.” The only teaching, motivation, or suggestion for making the claimed combination of elements, i.e., (1) a housing having a plurality of (2) **substantially identical AC power distribution outlets** for connecting AC electrical power to a plurality of devices, said housing having (3) a plurality of **colored areas for selectively identifying** each device of said plurality of devices, (4) **each colored area** of said colored areas on said **housing being different in color than any other such colored area**, and (4) **each of said colored areas being assigned to a different device**, arises from the present application itself; and any reasonable expectation of success for the claimed combination is shown only in the present application, not in the cited references. Only the present application states the problem in the prior art. Applying the rule of *In re McLaughlin*, i.e., that ‘A patentable invention, within the ambit of 35 U.S.C. 103, *may* result even if the inventor *has*, in effect, merely combined features, old in the art, for their own purpose, without producing anything beyond the results inherent in their use[,]’ even if the combination of the

instant claimed elements only produced results “inherent in their use,” i.e., “expected beneficial results,” as stated in the Office Action, the Applicant respectfully submits that this circumstance **would not and does not preclude patentability** under the case law.

Thus, the Applicant respectfully submits that Friesen, even in view of Brooks, does not teach, motivate, nor suggest the patentably distinct combination of structural elements in the herein newly added independent Claims 49 and 58 of the present invention. Therefore, the Applicant respectfully requests that the ground for rejection on this basis be withdrawn and the pending claims be passed to allowance.

V. Rejection of the Claims under 35 U.S.C. § 103(a) on the basis of Lee (US 5,589,718), in view of Friesen (US 6,496,884 B1), and in further view of webpage by Brooks, M. W., “How to Relabel or Rearrange Keycaps.”

The herein canceled claims have been rejected under 35 U.S.C. § 103(a) in the outstanding Office Action as being unpatentable over Lee (US 5,589,718), in view of Friesen (US 6,496,884 B1), entitled “Microcomputer System with Color-Coded Components,” and in further view of a webpage by Brooks, M. W., “How to Relabel or Rearrange Keycaps. As claims 41-48 have been herein canceled, without prejudice, the Applicant respectfully traverses this ground for rejection and submits that herein newly added claims 49-62 are patentably distinct over the ‘718 Patent to Lee, even in view of Friesen, and even in further view of Brooks.

Lee (‘718) merely teaches only a *power line conditioner* having specially grouped color-coded outlet portions (Abstract; col. 3, l. 37 - col. 4, l. 6). Similarly, Lee only color-codes *these “specially-grouped” electrically distinct outlets* which the user must identify: “The video source components, and the outlets 16e and 16f, would be assigned another color[;] and the audio amplifiers, and the outlets 16g and 16h would be assigned still another color.” [Emphasis added.] (col. 4, ll. 3-6). In particular, Lee (‘718) teaches: “The AC *power processing at one or more outlets differs from the processing at one or more of the other outlets* so that the outlets can *accommodate components with different electrical characteristics.*” [Emphasis added.] (Abstract; col. 2, ll. 9-13; col. 3ll. 20-33; Claim 1, ll. 34-38). Thus, such limitation is even included in Claim 1 of Lee.

As such, Lee ('718) is merely teaches both **electrically distinct outlets** and **special grouping of more than one outlet** corresponding to like-components with a given **like-color**, e.g., **3 red outlets, 3 green outlets, 3 blue outlets**, i.e., to facilitate only the “**plugging**” of components into the power line conditioner.” Lee ('718) does not teach, suggest, nor motivate the presently claimed **substantially (electrically) identical outlets, each having a distinct color**, e.g., **only 1 red outlet, only 1 green outlet, only 1 blue outlet**, which prevents accidental “**unplugging**” of the connector from the distribution system. In Lee ('718), all three audio amplifiers would *look like the same connection* by their same colors at the power line conditioner; therefore, the potential for prior art problem of accidental “unplugging” remains. In the present invention, all three audio amplifiers being coupled to substantially identical outlets *would look like a different connection* by their different colors at the power distribution system; therefore, the potential for the prior art problem of accidental “unplugging” is minimized.

Applying the foregoing case law, as discussed, supra, to the present application, neither suggestion nor motivation can be found for combining Lee ('718), with Friesen and Brooks, as electrically distinct power line conditioning ports to electrically distinct microcomputer peripheral ports to electrically distinct keyboard keycaps,” with the only common element being color-coding, are as analogous as “mangoes” to “apples” to “oranges,” with the only common element being their fructose. The only teaching, motivation, or suggestion for making the claimed combination of elements, i.e., (1) a housing having a plurality of (2) **substantially identical AC power distribution outlets** for connecting AC electrical power to a plurality of devices, said housing having (3) a plurality of **colored areas for selectively identifying** each device of said plurality of devices, (4) **each colored area** of said colored areas on said **housing being different in color than any other such colored area**, and (4) **each of said colored areas being assigned to a different device**, arises from the present application itself; and any reasonable expectation of success for the claimed combination is shown only in the present application, not in the cited references. Only the present application states the problem in the prior art. As such, even if the combination of the instant claimed elements only produced results “inherent in their use,” i.e., “expected beneficial results,” as asserted in the outstanding Office Action, the Applicant respectfully submits that this circumstance **would not and does not preclude patentability** under the case law.

Particularly on point with respect to this ground for rejection is, again, *In re Shaffer*, as discussed, *supra*, which states:

5 In fact, a person having the references before him who was not cognizant of appellant's disclosure would not be informed that the problem solved by appellant ever existed. Therefore, **can it be said that these references which never recognized appellant's problem would have suggested its solution? We think not, and therefore feel that the references were improperly combined since there is no suggestion in either of the references that they can be combined to produce appellant's result.** [Emphasis added.]

10 Here, as in *Shaffer*, Lee ('718) could not make the present invention obvious, because neither Friesen nor Brooks have even been aware of the "accidental unplugging" versus "plugging" problem which is so adroitly solved by the Applicant's invention. As such, neither Lee ('718), Friesen, nor Brooks could have suggested nor motivated the Applicant's simple, yet ingenious,
15 solution to the problem.

Thus, the Applicant respectfully submits that Lee, even in view of Friesen, and even in further view of Brooks, does not teach, motivate, nor suggest the distinct combination of structural elements in the herein newly added independent Claims 49 and 58 of the present invention. Therefore, the Applicant respectfully requests that this grounds for rejection of the
20 claims on this basis be withdrawn and the pending claims be passed to allowance.

CONCLUSION

Accordingly, Claims 41-48, are herein canceled, without prejudice; and new Claims 49-62 are herein added to better describe the present invention in language consistent with that found in the originally filed January 2, 1998, Specification. New claims 49-62 are believed to be fully supported by the originally filed specification and to be in allowable form. Thus, favorable consideration of the present continuation application is respectfully requested in light of the foregoing amendment and these remarks. *The Examiner is cordially invited to telephone the undersigned for any reason whatsoever which would advance the pending claims or the foregoing proposed amended claims to allowance.*

Respectfully submitted,



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